

STATE OF NEW HAMPSHIRE

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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LOCAL NO. 856, INTERNATIONAL ASSOCIATION :  
 OF FIRE FIGHTERS, AFL-CIO -- CLC, :  
 MANCHESTER, NEW HAMPSHIRE :  
 :  
 and :  
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 CITY OF MANCHESTER, NEW HAMPSHIRE AND :  
 BOARD OF FIRE COMMISSIONERS :  
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CASE NO. F-0104:1

17-34

APPEARANCES

Representing the Local No. 856, International Association of Fire Fighters:

- Ronald A. Philibert, President
- Roger L. Paradis, Vice President
- Mark S. MacKenzie
- William Rainey
- Michael Nagle
- Vincent A. Wenners, Jr., Esquire, Counsel for Local 856

Representing the Board of Fire Commissioners, City of Manchester, N. H.:

- Wilbur L. Jenkins, Chief Negotiator, Aldermanic Negotiating Team
- John R. Lydon, Chief
- William G. Durand, Deputy Chief

Representing the News Media:

- Susan Ahearn, WGIR, Manchester, New Hampshire
- John D. Stobierski, WKBR, Manchester, New Hampshire

FINDINGS

1. On October 27, 1977, Attorney Vincent A. Wenners on behalf of Local 856 filed a complaint against the City of Manchester, Board of Fire Commissioners for failure to negotiate a provision dealing with the requiring "manning of companies" or the number of personnel required therein, and the Staffing of the Fire Alarm Room.

Charges stated that on October 13, 1977, the Aldermanic Negotiating Team advised the Association that it would not negotiate the above proposals and restated their position on October 21, 1977 that they would not negotiate the same, under any conditions and refused to negotiate any elements of the proposed 1978 agreement until the Association changed its position regarding the two proposals.

2. On November 7, 1977, Wilbur L. Jenkins, Chief Negotiator for the City of Manchester, Aldermanic Negotiating Team, filed the City's reply to the complaint stating that at a negotiation session on September 22, 1977, the City advised the Association that the two items submitted by them; namely, "Manning

of Companies: and "Staffing of the Fire Alarm Room" were not negotiable based upon RSA 273-A:1, XI, Terms and Conditions of Employment. The City again repeated its statement that manpower requirements were not negotiable on September 28, 1977 and requested a response from the Union. City again restated their position on October 13, 1977 and October 21, 1977 and felt that "no meaningful negotiations" could take place until the issue was resolved.

The City contends that under RSA 273-A:1, IX the two proposals are not negotiable as they are clearly managerial policies within the exclusive prerogative of the public employer:

RSA 273-A:1, XI: "TERMS AND CONDITIONS OF EMPLOYMENT means wages, hours and other conditions of employment other than managerial policy within the exclusive prerogative of the public employer, or confided exclusively to the public employer by statute or regulations adopted pursuant to statute. The phrase "managerial policy within the exclusive prerogative of the public employer" shall be construed to include but shall not be limited to the functions, programs and methods of the public employer, including the use of technology, the public employer's organizational structure, and the selection, direction and number of its personnel, so as to continue public control of governmental functions."

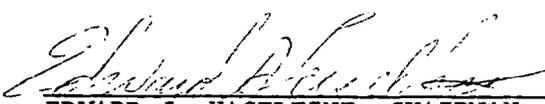
3. Oral testimony and several exhibits were presented during the three hour hearing held in the Office of the Public Employee Labor Relations Board, Pine Inn Plaza, Building 2, 117 Manchester Street, Concord, New Hampshire on December 15, 1977.
4. Because of the precedent setting nature of a decision in this matter, the Public Employee Labor Relations Board declined to rule on the charges until they could confer with Counsel, however, PELRB ordered, as follows:

BOARD ORDER

Pending a decision on the Unfair Labor Charges filed by the Fire Fighters Local, No. 856, against the City of Manchester, N. H. Board of Fire Commissioners, the Public Employee Labor Relations Board orders both parties to conduct meaningful negotiations on all other matters of interest.

Representative for the City of Manchester, Wilbur L. Jenkins and representative for the Local Union No. 856 of the IAFF, Attorney Vincent A. Weners, Jr., after a short consultation, withdrew their request for mediation and set Monday, December 19, 1977 as a date for resumption of negotiations.

December 15, 1977

  
EDWARD J. HASELTINE, CHAIRMAN